

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHAWN WOODWARD, 00-A-6563,

Plaintiff,

-v-

CORRECTION OFFICER MANN, et al.,

Defendants.



ORDER

09-CV-00451-RJA-JJM

On February 18, 2010, Hon. Michael A. Telesca granted plaintiff permission to proceed *in forma pauperis* pursuant to 28 U.S.C. §1915(a), and directed the Clerk of the Court to cause the United States Marshal to effectuate service [6].¹ All defendants have appeared in this case except defendants Correction Captain Kearney and Correction Officer B. Hunt.²

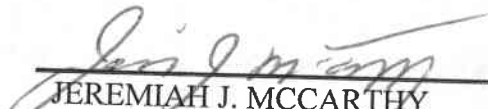
Once a plaintiff is granted permission to proceed *in forma pauperis*, the responsibility for effecting service of the summons and complaint shifts from the plaintiff to the court. See 28 U.S.C. §1915(d); Wright v. Lewis, 76 F.3d 57, 59 (2d Cir. 1996). Therefore, it is the Court's and Marshal's responsibility to effect service on the defendants as long as plaintiff properly identified them. See Moore v. Jackson, 123 F.3d 1082, 1085-86 (8th Cir. 1997) (If a *pro se* prisoner provides the information necessary to identify the defendant, courts have uniformly held that the Marshal's failure to effect service automatically constitutes good cause within the meaning of Fed. R. Civ. ("Rule") 4(m)).

¹ Bracketed references are to the CM/ECF docket entries.

² Full names for these defendants are not provided in plaintiff's pleadings.

Accordingly, I find good cause to extend the time in which to serve defendants Kearney and Hunt until **October 31, 2011**. See Rule 4(m); Romandette v. Weetabix, 807 F.2d 309, 311 (2d Cir. 1986); Armstrong v. Sears, 33 F.3d 182, 188 (2d Cir. 1994). The Clerk of the Court is again directed to cause the United States Marshal to re-serve the Summons and Second Amended Complaint on defendants Kearney and Hunt. The Marshals Service shall make one further attempt to serve the summons and complaint by mail pursuant to Fed. R. Civ. P. 4(d) and N.Y. C.P.L.R. 312-a by **August 31, 2011**. If these defendants do not acknowledge service by **September 30, 2011**, the Marshal shall then attempt to personally serve them by **October 31, 2011**. The Marshal is directed to notify the Court in writing of the status of service by **October 31, 2011**. Pursuant to 42 U.S.C. §1997e(g)(2) defendants Kearney and Hunt are directed to answer the Second Amended Complaint.

SO ORDERED.


JEREMIAH J. MCCARTHY
United States Magistrate Judge

Dated: August 17, 2011